

EXHIBIT Y: WAIVER REQUESTS

MAXIMUM LOAN LIMITS

Funding requests should not exceed \$2.0 million. Applicants requesting a waiver of the maximum loan amount should submit a waiver request that includes a description of other funding sources sought, the reason other funding sources are not available, the reason it is not feasible to reduce the project size or scope and the particularly high public purpose that the project serves.

MINIMUM REHABILITATION AND CONSTRUCTION COST LIMITS

For projects that involve the rehabilitation of existing buildings, the total hard costs of rehabilitation must be at least \$15,000 per unit. Applicants may request a waiver for projects that demonstrate both a strong need for preservation of affordable housing in the market area and that the affordable housing units will be lost if the project is not financed by the Department. Similarly, new construction projects that exceed the square foot maximum costs set forth in the Guide must also request a waiver justifying the estimated costs in terms of public purpose.

OPERATING RESERVES

Operating reserves should range from three to six months of projected operating expenses plus all required debt service payments and monthly replacement reserve payments. For projects with proposed operating reserves that are outside of this range, sponsors must submit a request for a waiver that includes a detailed explanation of the reasons operating reserves for the project should be set at a different level.

DEVELOPER'S FEE

The maximum developer's fee is 10% of acquisition costs and 15% of other total development costs. The developer's fee may not exceed \$2.5 million. For projects with a proposed developer's fees in excess of \$2.5 million, the applicant must submit a waiver request that includes a detailed explanation of the reasons an increased developer's fee is warranted.

OPERATING EXPENSES

Estimated annual operating expenses, including real estate taxes and excluding reserve for replacement deposits, should range from \$2,500 to \$4,500 per unit. For projects with proposed operating expenses that are outside of this range, applicants must submit a request for

waiver that includes a detailed explanation of the reasons operating expenses for the project are expected to be outside this range.

ATTACHMENTS

- ☐ Request for DHCD Loan Above Maximum
- ☐ Request for Rehabilitation Costs Below Maximum or Construction Costs Exceeding Maximums
- ☐ Request for Operating Reserves Outside Acceptable Range
- ☐ Request for Developer's Fee Above Maximum
- ☐ Request for Operating Expenses Outside Acceptable Range
- ☐ Other Requests

Not Applicable. For projects that meet all of the criteria threshold hereto described above, no documentation is required.

EXHIBIT Z: MONITORING CERTIFICATION FORM

DISTRICT OF COLUMBIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DHCD requires each applicant to sign a “Monitoring Certification Form” indicating their agreement to comply with the regulations, to be subject to DHCD monitoring for compliance, and to accept any applicable penalties for noncompliance. The applicant is responsible for any and all costs associated with implementing and maintaining records to comply with and allow for DHCD monitoring. The “Monitoring Certification Form” is included here as an attachment.

Department of Housing and Community Development

Monitoring Certification Form

The U.S. Department of Housing and Urban Development (HUD) and the District of Columbia regulations require the Department of Housing and Community Development (DHCD) to monitor projects funded with federal and/or District of Columbia funds for compliance with various federal and District regulations. Applicants receiving financial assistance from DHCD could be subject to any and all of the following laws and regulations:

- Community Development Block Grant (CDBG), including all applicable Office of Management and Budget (OMB) Circulars, such as A-110 and A-122
- HOME Investment Partnerships Program, (including long-term affordability periods)
- Housing Production Trust Fund regulations, (including continuous affordability requirements)
- Environmental Reviews - 24 CFR Part 85
- Affirmative Action Program
- Section 3 - (24 CFR Part 135)
- First Source Agreements
- Davis Bacon and related Acts
- Conflict of Interest
- Fair Housing
- American with Disabilities Act of 1990
- Lead Safe Housing Rule (Lead Based Paint)
- Section 504 of the Rehabilitation Act of 1973
- Uniform Relocation Act or District of Columbia Relocation Assistance provisions (10 DCMR Chapter 22)
- OMB Circular A-133
- Freedom of Information Act

Project Name _____
Project Address _____

Developer Name _____
Developer Address _____

As an authorized official for the respective organization I certify to my organization's acceptance to:

- (1) Comply with all applicable regulations,
- (2) Incur all costs required for compliance with the applicable regulations,
- (3) Be subject to DHCD monitoring for compliance, and
- (4) Accept any applicable penalties for noncompliance.

(Print Full Name)

(Signature)

(Print Title)

(Date)

***EXHIBIT Z-1: FAIR HOUSING AND EQUAL OPPORTUNITY (FHEO)
CERTIFICATION***

The Department of Housing and Community Development (DHCD), under regulations from The U.S. Department of Housing and Urban Development (HUD), requires that each applicant for federal and/or District of Columbia funds sign the “Fair Housing and Equal Opportunity Certification Form” which indicates that neither applicant nor its contractors have any pending fair housing or civil rights legal proceedings against them for fair housing or equal opportunity violations. The applicant further agrees to comply with the FHEO laws and regulations as described in the attached information and is responsible for any and all costs associated with implementing and maintaining records to comply with and allow for DHCD monitoring. Applicants receiving financial assistance from DHCD need to be knowledgeable of all FHEO laws and regulations which affect the execution of their activities.

Signature and Certification:

The undersigned certifies to the District of Columbia Department of Housing and Community Development that it has read and understands all of its obligations under the FHEO requirements. The undersigned acknowledges that this certification will be relied upon by DHCD in its review and approval of proposal for funding and any misrepresentation of information or failure to comply with any conditions proposed in this certification could result in penalties, including the disbarment of Applicant for a period of time from participation in DHCD administered programs.

Signed: _____
Applicant

Date _____

Signed _____
Architect/Engineer (registration number)

Date _____

Signed _____
Developer

Date _____

DEFINITION OF LAWS

THE FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968 (**Fair Housing Act**) prohibits discrimination in the *sale, rental and financing of dwellings based on race, color, religion, sex or national origin*. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act to prohibit discrimination based on *disability or on familial status* (presence of child under age of 18, and pregnant women).

The 1988 Amendments also established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

In connection with prohibitions on discrimination against individuals with disabilities, the *Act contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy on or after March 13, 1991*.

Complain Process:

Complaints filed with HUD are investigated by the Office of Fair Housing and Equal Opportunity (FHEO). If the complaint is not successfully conciliated then FHEO determines whether reasonable cause exists to believe that a discriminatory housing practice has occurred. Where reasonable cause is found, the parties to the complaint are notified by HUD's issuance of a Determination, as well as a Charge of Discrimination, and a hearing is scheduled before a HUD administrative law judge. Either party -- complainant or respondent -- may cause the HUD-scheduled administrative proceeding to be terminated by electing instead to have the matter litigated in Federal court. Whenever a party has so elected, the Department of Justice takes over HUD's role as counsel seeking resolution of the charge on behalf of aggrieved persons, and the matter proceeds as a civil action. Either form of action -- the ALJ proceeding or the civil action in Federal district court -- is subject to review in the U. S. Court of Appeals.

THE ARCHITECTURAL BARRIERS ACT OF 1968

The Architectural Barriers Act (ABA) requires buildings and facilities that are constructed by or on behalf of, or leased by the United States, *or buildings financed, in whole or in part, by a grant or loan made b federal funding to be accessible to persons with mobility impairments*. The Architectural and Transportation Barriers Board (ATBCB) has coordination authority for the ABA.

Legal Authority: The Architectural Barriers Act, 42 USC 4151, et seq; 24 CFR Parts 40 and 41.

Program Status: Active

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (TITLE VI)

Title VI prohibits discrimination on the basis of race, color or national origin in (1) programs and (2) activities receiving “Federal financial assistance”. Complaints must be filed within 180 days of the alleged act of discrimination. Complaints received from a program participant or service recipient will be forwarded to the Fair Housing Equal Opportunity division at the U.S. department of Housing and Urban Development.

Legal Authority: Title VI Civil Rights Act of 1964, 42 USC 2000d; 24 CFR Part 1.

Program Status: Active

EXECUTIVE ORDER 11063, NON-DISCRIMINATION

Executive Order 11063 (*Non-Discrimination and Equal Opportunity in Housing*) directs HUD and all other executive departments and agencies to take appropriate action to promote the abandonment of discriminatory practices with respect to property or facilities owned or operated by the Federal Government or provided with Federal financial assistance in the sale, leasing, rental, or other disposition of such property or facilities.

Legal Authority: E.O. 11063, Non-Discrimination, Issued Nov. 20, 1962, 27 FR 11527; 24 CFR Part 107.

Program Status: Active

AGE DISCRIMINATION ACT OF 1975

The Age of Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age of:

- excluding individuals from denying them the benefits subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or
- denying or limiting individuals their opportunity to participate in any program or activity receiving Federal financial assistance.

Legal Authority: Age Discrimination Act of 1975, 42 USC 6101 et seq. and HUD Regulations at 24 CFR Part 146.

SECTION 109, HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of

age under the Age Discrimination Act and the prohibitions on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title 1 programs.

Legal Authority: Codified in 24 CFR Part 6.

EXECUTIVE ORDER 11246

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin. This order was superseded by Executive Order 11478 (Sec 401: 1101), which called for affirmative-action programs for equal opportunity at the agency level under general supervision of the Civil Service Commission.

Legal Authority: 41 CFR Chapter 60 (DOL)

EXECUTIVE ORDER 12892

Executive Order 12892, as amended, requires federal agencies [and their subrecipients] to affirmatively further fair housing in their programs and activities.

EXECUTIVE ORDER 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted conducted programs and activities.

Variety of Covered Groups

Civil rights laws prohibit discrimination on several different grounds. These grounds are often the same among two or more of these laws. Thus, persons in a variety of "classes" or population groups are covered. These groups include: racial/ethnic groups e.g. Whites, Blacks, Hispanics, Asians/Pacific Islanders and American Natives; gender groups; groups distinguished by age or religion; and handicapped persons. The chart below indicates which of these classes or groups are covered by more than one civil rights law:

	RACE	COLOR	SEX	NATIONAL ORIGIN	RELIGION	AGE	HANDICAP
Title VI	X	X		X		X*	X*
Section 109	X	X	X	X			
Title VIII	X	X	X	X	X		X
E.O. 11063	X	X	X	X	X		
E.O. 11246	X	X	X	X	X		
Age Act 1975						X	
Section 504							X
Section 3	Coverage relates to lower income residents and certain businesses located in or owned by persons residing in the same metropolitan area (or non-metropolitan county) as the project.						

***NOTE:** Age and handicap are only covered to the extent provided under the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973.

Overlapping Coverage of Activities

More than one civil rights law may apply to a single type of activity. The following chart is a description of some of the major CDBG activities and the corresponding civil rights laws that affect them.

Constitutional Basis

The guarantee of civil rights has a constitutional as well as statutory base. Civil rights laws are an extension and interpretation of the equal protection and due process requirements of the United States Constitution.

CIVIL RIGHTS LAWS AND REGULATIONS

APPLICABLE CIVIL RIGHTS LAW	IMPLEMENTING REGULATIONS
Title VIII, Civil Rights Act of 1968, as amended	24 CFR parts 105,108, 109, 110, and 115; Part 200 Subpart M
Title VI, Civil Rights Act of 1964	24 CFR Part 1 (HUD)
Section 109, Housing & Community Development Act of 1974, As amended	24 CFR Part 570, Subpart I (HUD)
Executive Order 11063, as amended	24 CFR Parts 107 (HUD)
Section 104, Housing & Community Development Act of 1974, as amended	24 CFR Part 570, Subpart I
Executive Order 11246,as amended	41 CFR Chapter 60 (DOL)
Age Discrimination Act of 1975, as amended	45 CFR Part 91 (HHS)

EXHIBIT Z-2: SECTION 504 CERTIFICATION FORM

As an authorized official for the respective organization I certify to my organization's acceptance to:

- (1) Comply with all applicable regulations,
- (2) Incur all costs required for compliance with the applicable regulations,
- (3) Be subject to DHCD monitoring for compliance, and
- (4) Accept any applicable penalties for noncompliance.

The undersigned acknowledges that this certification will be relied upon by DHCD in its review and approval of final plans and specifications and any misrepresentations of information or failure to comply with any conditions proposed in this certification could result in penalties, including the disbarment of Applicant for a period of time from participation in DHCD administered programs.

_____ Applicant Signature	_____ Title	_____ Date
_____ Full Name (Print)	_____ Title	_____ Date
_____ Developer Signature	_____ Title	_____ Date

SECTION 504 CERTIFICATION SHEET & ACCESSIBILITY REQUIREMENTS

Section 504 of the Rehabilitation Act of 1973, as Amended, prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. It states, “No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service”.

The U.S. Department of Housing and Urban Development (HUD) regulations, at **24 CFR Part 8**, sets a mandate for the DC Department of Housing and Community Development (DHCD) to monitor projects funded with federal funds for compliance with various federal regulations.

DHCD requires that the accessibility requirements of Section 504 be incorporated into the design and construction of all new construction and/or rehabilitation projects funded under the 2003 Notice of Funding Availability (NOFA) and Request for Proposals (RFPs) regardless of whether or not the project will receive funding assistance.

NEW CONSTRUCTION

In regards to new construction, DHCD requires new developments to have a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, accessible for persons with mobility impairments. An additional 2% of the units must be accessible for persons who have hearing or vision impairments. Accessible units to the maximum extent feasible must be distributed throughout the project. HUD may prescribe a higher percentage of units be accessible based upon the need for accessible units in the geographic area.

SUBSTANTIAL REHABILITATION/ALTERATIONS

The requirements for new construction also apply with substantial rehabilitation, which applies to properties with 15 or more units. ***Substantial rehabilitation occurs when the cost of the alteration is 75% or more of the replacement cost of the completed property.*** Construction and equipment costs do not include the (1) cost of land, (2) demolition, (3) site only improvements, (4) non-dwelling facilities, and (5) administrative costs for project development activities.

Section 504 requires that if any development (regardless of the number of units) is making modifications which go beyond normal maintenance, but which do not fall into the category of substantial alterations (either because of cost or the development has less than 15 units) that alterations to dwelling units...shall to the, maximum extent feasible, be made readily accessible to and usable by individuals with handicaps. If alterations of single elements or spaces of dwelling unit when considered together, amount to an alteration of a dwelling unit, the entire dwelling shall be made accessible.

REHABILITATION/MODIFICATION

Section 504 requires that if any development (regardless of the number of units) is making modifications which can go beyond normal maintenance, but which do not fall into the category of “substantial

alterations” (either because of cost or the development has less than 15 units) that alterations to dwelling units...shall, to the maximum extent feasible, be made readily accessible to and usable by individuals with handicaps. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible.

TENANT REQUESTS FOR MODIFICATIONS

With tenant requested modifications, when an applicant or tenant requires an accessible feature to accommodate a disability, the owner must provide such feature unless doing so would result in a fundamental alteration in programs and/or an undue financial or administrative burden imposed on the operation of the program or facility.

NOTE: Each applicant must sign a “Section 504 Certification Form” indicating the agreement to comply with the regulations, to be subject to DHCD monitoring for compliance, and to accept any applicable penalties for noncompliance. After reviewing the information in this document please review the Section 504 attachment and fill out the Certification Form below.

EXHIBIT Z-3: LEAD-SAFE HOUSING ADDENDUM

DHCD/DFD Multi-Family Rehabilitation Projects

I. Introduction

This Addendum is intended to be an integrated summary of Federal and District requirements for the implementation of lead hazard reduction. DHCD is responsible for the enforcement of the HUD Lead-Safe Housing Rule, 24 CFR Part 35, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance" - <http://www.hud.gov/offices/lead/leadsaferule/index.cfm>. The Borrower of DHCD funds is responsible for the implementation of the lead-safe housing requirements defined below.

The Addendum is structured in two parts: Requested Information – to be provided as a part of responding to this RFP; and Requirements – to identify the requirements that the potential Borrower will be responsible for if the proposal is selected for underwriting.

REQUESTED INFORMATION

6. How old is the property? _____
7. Is there a known presence of Lead-Based Paint (LBP)? Y/N____
8. If the presence of lead is known, has it been disclosed to the tenants if the property was occupied at the time the presence of lead was determined? Y/N____
9. If disclosure has taken place, provide a copy of evidence of disclosure.
10. How was the presence of LBP determined? _____

9. What documentation exists that identifies the presence of LBP (e.g., Phase 1 environmental, lead survey, lead inspection, etc.) _____

10. Has a risk assessment been performed? Y/N____ If yes, please provide a copy with proposal.
11. Are LBP hazards present (peeling, chipped or cracked LBP)? Y/N____
12. Is the building occupied? Y/N____
13. Are there children under 6 residing at the property? Y/N____
14. Has there been previous testing of children residing at the property? Y/N

REQUIREMENTS

The requirements presented below are based on (HUD) 24 CFR 35, Subpart J - Rehabilitation. Where there is an additional or greater requirement of the District, it will be so stated. Borrowers need to be very familiar with both Federal and District lead laws and regulations.

II. *Requirements Summary*

The goal of the requirements is to be lead-safe, not lead-free. The most important requirements are summarized below. A summary of the HUD 24 CFR 35, Subpart J – Rehabilitation – is presented in Attachment (1). DHCD requirements are the same as 24 CFR 35 except as noted.

1. HUD requirements are tied to levels of assistance. The HUD 24 CFR 35 establishes different lead-based paint (LBP) requirements for rehabilitation, depending on the level of Federal assistance to the project. The thresholds are up to \$5,000 per unit; \$5,001 to \$25,000 per unit; and greater than \$25,000 per unit. This is amplified in Attachment (1). These thresholds are for hard costs, and do not apply to soft or lead hazard reduction costs. **[Requirements for locally¹ funded projects are the same as for the Federal funding level of \$5,000-\$25,000. These requirements focus on interim controls to treat LBP hazards].** Attachment (1) provides a general comparison between HUD and DHCD requirements.
2. Disclosure. Requirements of the Disclosure Rule have been in effect since 1996 - <http://www.hud.gov/offices/lead/disclosurerule/index.cfm> . This requires that landlords and/or property managers disclose any known lead-based paint and lead-based paint hazards when renting a unit. A sample disclosure form is contained in **Appendix B**. As part of disclosure, the tenants must be given a copy of the pamphlet “Protect Your Family from Lead in Your Home” - <http://www.hud.gov/offices/lead/>. Tenants are also to receive a copy of the pamphlet at the beginning of any rehab job, unless the pamphlet has previously been provided to the tenants.
3. A Risk Assessment, performed by a certified risk assessor, is required for all Multi-Family Rehab projects. It is due prior to the Final Application. Paint testing - to determine the presence of LBP in all surfaces to be disturbed - is required as part of the Risk Assessment. A presumption of lead will not be accepted. (Phase 1 environmental testing and hazmat surveys are not acceptable, as they do not meet the requirements of 24 CFR 35). Risk assessments will identify LBP hazards and include options to treat the hazards.
4. Notification. There are several required notices to be provided to tenants:
 - a. A Notice of Evaluation describing the nature, scope and results of the Risk Assessment;
 - b. A Notice of Hazard Reduction Activities must be provided to the tenants to inform them of the nature, scope and results (including clearance) of the completed lead hazard reduction scope of work; and
 - c. Notices for on-going maintenance as may be required by 24 CFR 35.

¹ Locally funded: not assisted with Federal housing funds (HUD, EPA, and Agriculture).

Attachment (1): Summary of the HUD 24 CFR 35, Subpart J – Rehabilitation

5. Testing of children. Upon receipt of the Risk Assessment, the D.C. Department of Health (DOH) will request the testing of all children under six (6). Units with children who may test for certain elevated blood levels (EBLs) will be inspected by DOH. If the unit is determined to be the cause of the child's EBLs, the owner will be issued a Notice of Violation. DHCD will not commit to funding a project (execute a Letter of Commitment) until the owner agrees to cure the violation.
6. Temporary safe housing for tenants is typically required during the lead hazard reduction activity for occupant protection - with some exceptions. See Section VI.
7.
 - a. "Certified workers, certified supervisors, and certified business entities" are required for all work that is designed to permanently eliminate LBP hazards², and for projects receiving over \$25,000 in federal assistance per unit.
 - b. "Trained workers" are required for all other work impacting an LBP surface (all work that is not designed³ to permanently eliminate LBP hazards) in any project that is:
 1. Receiving up to \$25,000 of federal assistance per unit; or
 2. Locally funded by DHCD regardless of amount.
8. Safe work practices as specified in 24 CFR 35 must be used by contractors/workers whenever they will disturb a surface with LBP.
9. Units must pass clearance testing before reoccupancy. DHCD requires that the clearance report submitted to DOH for verification, and that a Certificate of Lead-Based Paint Compliance be obtained.
10. Ongoing LBP maintenance (corrective measures to treat LBP hazards, using trained workers and required documentation) and reevaluation are required for HOME-funded rental projects. For locally funded projects, and projects funded with CDBG, DHCD requires the same ongoing maintenance as 24 CFR 35 where there is a defined affordability period. DHCD requires a visual assessment for deteriorated paint and the failure of hazard reduction measures at unit turnover and every 12 months over the affordability period. All deteriorated lead-based paint must be stabilized, and failed hazard reduction methods corrected with interim controls, or permanent controls if originally required. Trained or certified workers must use safe work practices and the unit(s) must pass clearance. DHCD does not require re-evaluation for these programs.

Maintenance records per 24 CFR 35 must be retained by the landlord for all properties containing LBP.

² Work designed to permanently eliminate LBP hazards: All permanent control work items (removal, replacement, encapsulation or enclosure) resulting from changes or additions to the rehab scope of work, based on an agreement on the implementation of the risk assessment by the developer and the risk assessor. The agreement is to be founded on reasonable accommodation by both the developer and the risk assessor/project designer, and will be reviewed by DHCD.

³ Exemption: DHCD will sign off on the DOH required exemption with the developer for work that is not designed to permanently eliminate LBP hazards.

11. Homeownership. For condominiums and cooperatives, **all** units will be paint tested, risk assessed, and cleared.

iii. Exemptions

The following are exempt from this Requirements Exhibit; see 24 CFR 35 for a complete list of exempt properties:

1. Housing built after January 1, 1978
2. Housing for the elderly or persons with disabilities unless a child under six resides, is expected to reside, or regularly visits
3. Any zero bedroom unit, such as an efficiency or a single-room occupancy unit
4. Lead-free properties

IV. Conditions Precedent to Closing

The following documentation, presented below, will be completed and submitted to the DHCD Project Manager as conditions precedent to closing that will be required in the Letter of Commitment. **The first two are due with the Preliminary Application if the presence of lead is known, and the property is occupied.** Items 3, 4 and 5 are due with the Final Application after selection for underwriting. Items 6 and 7 are due prior to closing.

1. Disclosure: Evidence that disclosure has been made to residents if the building is occupied and LBP is present.
2. Evidence that the owner/manager has provided tenants a copy of the pamphlet “Protect Your Family from Lead in Your Home”.
3. Risk Assessment
4. Notice of Lead Hazard Evaluation (risk assessment) provided to tenants following the risk assessment – if the building is occupied.
5. “Selected Lead Hazard Reduction Options for Project Scope of Work”
6. **Occupant Protection Plan.**
7. **Temporary Safe Housing Plan, and notice(s) required to date.**

V. Occupant Protection and *Temporary* Safe Housing

Safe work practices [24 CFR 35 (Subpart R, §35.1350)] require occupant protection (§35.1345). This means that occupants and their belongings must be protected from lead contamination during rehabilitation. The most effective way to protect occupants is by temporarily relocating them while the work is underway.

An Occupant Protection Plan (ref. 24 CFR 35.1325 and EPA 40 CFR 745) is required:

1. **Projects with Federal funding greater than \$25,000 per unit; and**
2. **All District funded projects. The Plan will identify work-site protection measures and management procedures, including protection of household belongings. The Plan must**

identify procedures to allow tenants access to their belongings – through “reasonable accommodation” – during the period of temporary safe housing. The Plan must be submitted to the DHCD Project Manager for approval.

Temporary relocation is not required if the Borrower can meet the five calendar day exception criteria⁴ (ten days for District funded projects for householders without children under six) for completion of lead hazard reduction in a given unit with end of workday cleanup. Also, the elderly will have an exemption as defined in 24 CFR 35.

The Borrower may look for ways to temporarily relocate families from one unit to another while work is underway. Temporary relocation as part of normal, planned rehab phasing may obviate the need for any relocation for lead purposes only.

If families must temporarily move out of the building, the following apply:

- **Referrals. Families must be referred to lead-safe units for federally funded projects. This may mean hotels or motels built in 1978 or later, if other lead-safe units are not available.** For locally funded projects, lead-safe referrals are not required for households with children six (6) or older. However, a visual assessment shall be performed (a risk assessment is not required), interim controls applied if needed, and cleaning and clearance testing completed if hazard reduction work is to be done and/or a child under six is part of the move.
- **Requirements of Chapter 2-4 (Appendix B) of the HUD Relocation Handbook 1378⁵ shall apply to all temporary moves, including notices.**
- **Stipend. The Borrower will pay a stipend to households that are temporarily relocated to cover out of pocket costs associated with the move, including moving expenses and increased housing expenses (including rent differential for the duration of the temporary move).**
- **Tenants’ belongings must be protected as long as the belongings remain in the unit from which the tenants are temporarily relocated.**
- **A Temporary Safe Housing Plan is required regardless of whether it is Federally or locally funded. The content of the plan will include the following:**
 - 1. Number of units occupied and names of heads of household.**
 - 2. Number of units with children under six, and a list of the children’s names.**
 - 3. Procedures to address the requirements of Appendix B.**
 - 4. Schedule, including length of temporary move and phasing of lead-related work.**
 - 5. Cost Estimates**

⁴ 24 CFR 35.1345(a)(2)(iv).

⁵ HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition

APPENDICES:

APPENDIX A: Disclosure Form

APPENDIX B: Temporary Relocation Requirements – HUD Handbook 1378

APPENDIX A:

Disclosure Form

APPENDIX B:
Temporary Relocation Requirements – HUD Handbook 1378

BASIC REQUIREMENTS – PERSONS NOT TO BE DISPLACED

a. General. The Agency shall:

- (1) To the extent feasible, consult with the tenant organizations in the proposal development stage; solicit comments and recommendations for alternative strategies and other improvements, and give full and serious considerations to those comments.
- (2) In addition to providing the notices described in Paragraphs 2-3(a) (1) and b(1), explain the terms and conditions of occupancy upon completion of the project, applicable policies covering temporary relocation and a move within the building/complex, and the project schedule. (For tenants of a dwelling, the maximum new rent/utility costs are described in Chapter 8).
- (3) Where appropriate, supply information on, and explain, housing assistance available through Federal, State and local programs (e.g., housing vouchers/certificates for rental assistance provided by a Public Housing Agency under Section 8 of the United States Housing Act of 1937, as amended) and help the person apply for such Assistance.
- (4) To the extent feasible, provide counseling, referrals to other sources of assistance (e.g., drug and alcohol treatment, welfare assistance, child care, voter registration, job training) and such other help as may be appropriate.

b. Temporary relocation of residential tenants. When necessary or appropriate, residential tenants who will not be required to move permanently may be required to relocate temporarily for the project. All conditions of temporary relocation must be reasonable. At a minimum, the tenant shall be provided:

- (1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at such housing.
- (2) Appropriate advisory services, including reasonable advance written notice of (a) the date and approximate duration of the temporary relocation; (b) the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; (c) the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and (d) the provisions of Paragraph 2-4b(1).